

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

FRANKLIN X BAINES, Petitioner,	:	
v.	:	No. 2:12-cv-05672
LOUIS S. FOLINO, WARDEN; THE ATTORNEY GENERAL OF THE STATE OF PENNSYLVANIA; and THE CITY OF PHILADELPHIA, Respondents.	:	

ORDER

AND NOW, this 5th day of August, 2019, upon consideration of the Petition for Writ of Habeas Corpus, the Commonwealth’s responses, all other documents filed by the parties, the Report and Recommendation (“R&R”) issued by Magistrate Judge Carol Sandra Moore Wells on June 10, 2019, to which no objections were filed,¹ and for the reasons set forth in the R&R, **IT IS HEREBY ORDERED THAT:**

IS HEREBY ORDERED THAT:

1. The Report and Recommendation, ECF No. 90, is **ADOPTED**;

¹ When neither party objects to a magistrate judge’s report and recommendation, the district court is not statutorily required to review the report, under *de novo* or any other standard. 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 152 (1985). Nevertheless, the United States Court of Appeals for the Third Circuit has held that it is better practice to afford some level of review to dispositive legal issues raised by the report. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987), *writ denied* 484 U.S. 837 (1987). “When no objections are filed, the district court need only review the record for plain error or manifest injustice.” *Harper v. Sullivan*, No. 89-4272, 1991 U.S. Dist. LEXIS 2168, at *2 n.3 (E.D. Pa. Feb. 22, 1991). *See also Hill v. Barnacle*, No. 15-3815, 2016 U.S. App. LEXIS 12370, at *16-17 (3d Cir. 2016) (holding that even when objections are filed, district courts “are not required to make any separate findings or conclusions when reviewing a Magistrate Judge’s recommendation *de novo* under 28 U.S.C. § 636(b)’’); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (explaining that in the absence of a timely objection, the court should review the magistrate judge’s report and recommendation for clear error). The district court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1)(C).

2. The Petition for Writ of Habeas Corpus, ECF No. 1, is **DISMISSED as moot**;
3. Petitioner's Motion Requesting an Order that Respondents Resentence, or alternatively, that the Federal Court Take Jurisdiction, ECF No. 89, is **DENIED as moot**;
4. There is no basis for the issuance of a certificate of appealability.
5. The case is **CLOSED**.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LEESON, JR.
United States District Judge